

Service Date: August 21, 1995

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER Of the Application)	TRANSPORTATION DIVISION
of Burlington Northern Railroad)	
Company to remove the Cedar)	DOCKET NO. T-93.124.RR
Spur trackage located at Troy,)	
Montana.)	ORDER NO. 6374

FINAL ORDER

INTRODUCTION AND BACKGROUND

1. Burlington Northern Railroad Company (BNRC or Applicant) filed a petition with the Montana Public Service Commission (Commission) on August 26, 1993, pursuant to 69-14-813(2), MCA, seeking authorization to remove its Cedar Spur track located at Troy, Montana.
2. The Commission issued Notice of Proposed Rail Trackage Removal on September 3, 1993. Subsequent to that notice, information was received by the Commission that the turnouts to the said spur track may have been previously removed. By letter dated October 13, 1993, BNRC confirmed the switch at the Cedar Spur at Troy was straight-railed (removed) five or six years prior to the application. Further information filed by the Applicant indicated the trackage identified for removal in Docket T-93.124.RR had also been removed.
3. Applicant filed a Motion to Withdraw the Petition to remove the Cedar Spur Trackage located at Troy, Montana on April 26, 1995.

DISCUSSION

Although the trackage identified as the Cedar Spur Track located at Troy, Montana may have been constructed and used for the purposes of the railroad, as opposed to providing rail service to the public, it in fact was at times used by the Cedar Mill. The removal of trackage without Commission approval is a violation of the law. The Commission acknowledges that BNRC is a large corporation and that, at times, management decisions may be fragmented or not communicated to affected parties. Some decisions may be made without input or direction from appropriate management. Nonetheless, the Commission notes the seriousness of BNRC's removing trackage, facilities, or service absent Commission approval. If BNRC shows a pattern of disregard for the law in matters of this kind, the Commission will consider sanctions pursuant to Title 69, Chapter 14.

CONCLUSIONS OF LAW

1. The Public Service Commission has jurisdiction over the parties and matters in this proceeding pursuant to Title 69, Chapter 14, MCA.
2. The Commission has provided adequate notice and opportunity to be heard to all interested parties in this matter as required by Title 2, Chapter 4, MCA.

ORDER

NOW THEREFORE IT IS ORDERED that the Motion by Burlington Northern Railroad Company to withdraw the application for removal of the Cedar Spur Trackage located at Troy, Montana is denied.

IT IS FURTHER ORDERED that the application to remove the Cedar Spur Trackage located at Troy, Montana is granted.

Done and Dated this 24th day of May 1995 by a vote of 5 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION.

NANCY McCaffree, Chair

DAVE FISHER, Vice Chair

BOB ANDERSON, Commissioner

DANNY OBERG, Commissioner

BOB ROWE, Commissioner

ATTEST:

Kathlene M. Anderson
Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.